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FISCAL IMPACT STATEMENT

LS 6951

BILL NUMBER: HB 1232

NOTE PREPARED: Jan 9, 2008

BILL AMENDED:

SUBJECT: Criminal History Checks.

FIRST AUTHOR: Rep. Hoy

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill exempts a postsecondary educational institution from paying a fee for a limited criminal history record of a student in the institution's school of education before the student begins the student's field or classroom experience.

The bill requires an expanded criminal history background check for a person seeking to obtain or renew a teaching license or certificate.

Effective Date: January 1, 2009.

Explanation of State Expenditures: *Postsecondary Institutions Fee Exemption:* The total number of postsecondary students for which a name-based limited criminal history background check is currently conducted is not known. To the extent that a post-secondary school of education is currently paying the fee for a student to obtain a name-based limited criminal history background check, expenditures for the post-secondary school of education would be reduced. Fees for name-based limited criminal history background checks are as follows: \$16.32 for persons who do not subscribe to AccessIndiana, \$15 for AccessIndiana subscribers, or \$7 by mail. [Note: Current statute refers to these checks as limited criminal history checks.]

Under current law, a person may request a criminal history check review challenge (fingerprint identification is required) after having obtained a limited criminal history check (can be obtained through subject or fingerprint identification). As proposed, the number of name-based limited criminal history checks could increase, impacting the number of criminal history check review challenges for the state. If criminal history review challenges increase as a result of this bill, revenue to the General Fund can increase by fees paid for these requests. Currently, ISP charges \$10 per review challenge. Actual increases of review challenges is

indeterminable.

Indiana State Police: As proposed, the Indiana State Police (ISP) could experience an increase in workload if postsecondary institutions demand more limited criminal history checks. If postsecondary institutions are exempt from fees used to pay for processing these requests, ISP would have to absorb the additional workload within their current level of resources. However, ISP may experience a decrease in workload to the extent that teachers were required to provide name-based limited criminal history checks obtained through ISP. [Note: ISP reverted \$185,000 to the General Fund in FY 2007.]

Background Information: A name-based limited criminal history check is defined as a criminal history check that searches within the state any criminal activity associated with a person's legal name(s). This check must include (1) a disposition and (2) a photograph of the person who is the subject of the limited criminal history, if a photograph is available. The term includes information about any arrest or criminal charge that occurred less than one year before the date of a request even if no disposition has been entered. A limited criminal history background check is obtained through the ISP.

An expanded name-based criminal history check refers to searches performed on criminal activity associated with a person's legal name(s) in all 50 states and does not involve the use of fingerprints.

A national criminal history background check is defined as a fingerprint-based check that uses the Federal Bureau of Investigation's (FBI) Automated Fingerprint Identification System (AFIS) to match an applicant's fingerprints to any crimes committed by that applicant nationally or any other method of positive identification. A national criminal history background check is also obtained through the ISP.

A criminal history check review challenge occurs when an applicant who received a name-based limited criminal history check challenges the results by submitting to a fingerprint-based criminal background check performed by the ISP.

Explanation of State Revenues: *Expanded Criminal History Check for Teachers Applying for Certification and Licensure:* This bill requires individuals that apply for teaching licensure and certification (both renewal and new requests) to complete an expanded name-based criminal history check and a sex offender registry check of all 50 states as a condition of the application process. Background check policies vary by school corporation; some request limited criminal history and/or national criminal history background check information, while others do not. The number of teachers applying for certification and licensure that are currently required to submit a criminal background check is unknown.

The bill defines what is required in an “expanded criminal history check”. This check includes a search of the in-state and out-of-state records of the past seven years from the date of the background check as well as a check of either the sex offender registry of all 50 states or the national sex offender registry maintained by the U.S. Department of Justice. The bill would require teachers applying for certification or licensure to either obtain an expanded name-based criminal history check or a national background check, both of which would satisfy the requirements of the application process.

National criminal history background checks cost a total of \$39, \$24 of which is given to the federal government and the remaining \$15 is deposited into the state General Fund. Revenue to the General Fund may increase to the extent that teachers applying for certification and licensure request national criminal history background checks as opposed to purchasing expanded criminal background checks from private

companies.

If the state experiences (1) a decrease in the amount of limited criminal history checks requested by teachers or (2) a decrease in the fees paid by postsecondary institutions but no change in the limited criminal history check requests made by postsecondary institutions, the state will experience a decrease in revenue to the General Fund and Indiana Office of Technology (IOT) Portal Fund. Actual General Fund decreases will be \$7 per request, and for the IOT portal fund of \$1 or \$1.32 per request (depending on the method used to request the background check).

	Current Law	As Proposed
Type of Check and Requirement	Depending on school corporation or charter school policy, <u>may</u> be required to submit a limited or national criminal history check for new hires. It is not known if school corporations require new hires to submit criminal history information.	Would be required to collect national criminal history check or expanded history check for all individuals applying for licensure and certification (renewals or new applicants).
Fee	<u>Limited</u> : \$16.32 for persons who do not subscribe to AccessIndiana, \$15 for AccessIndiana subscribers, and \$7 by mail; fee is waived for school corporations; or <u>National</u> : \$39, \$15 of which is deposited into the state General Fund, \$24 is forwarded to the federal government.	\$39, \$15 of which is deposited into the state General Fund, \$24 is forwarded to the federal government. Fees for expanded criminal history checks are not known. However, no revenue would be forwarded to state/local governments.
Fee Responsibility	School corporation may require the new hire to pay fees required for a national criminal history background check; new hire is required to pay fees for a limited criminal history background check.	Applicants for licensure and renewal would be responsible for all costs associated with the requirements of the bill.

Post-Secondary Schools of Education Fee Exemption: To the extent that a student or a post-secondary school of education currently obtains a name-based limited criminal history check for the purposes of the bill, the state would experience a decrease in revenue to the state General Fund and the IOT Portal Fund. Actual decreases would depend on the number of students obtaining a name-based limited criminal history check, the method in which the check was obtained, and the fee paid for the check. Post-secondary institutions will experience a decrease in expenditures only to the degree they were paying for criminal background checks for students prior to this bill.

Phone interviews with selected state universities revealed policy regarding payment for criminal background checks in post-secondary institutions varied across the board; sometimes the burden fell on the student, and sometimes the institution funded the cost of the check. Actual numbers of criminal background checks by post-secondary institutions was indeterminable because each institution has different policies about requiring background checks for students and few kept data on how many background checks they had requested in years past.

Modification of Criminal History Check Policy: Fees vary for limited criminal history background checks and depend on the method in which the information is obtained. Revenue from fees collected is deposited into the state General Fund and the IOT Portal Fund. Currently, individuals challenge the results of a name-based criminal background check by requesting a finger-print based review challenge. Fees are assessed for

a review challenge and these fees are deposited in the General Fund. Any change in revenue would depend on the number of persons currently requesting a review challenge (for which the state would experience a decrease of \$10 per review challenge) and the number of people who would, under the bill, obtain a name-based expanded criminal history check (for which the state would experience no increase in revenue) and then subsequently obtain a review challenge (for which the state would experience an increase in revenue of \$10 per review challenge).

Background Information: In CY 2006 ISP reports that criminal background checks generated \$2.3 M in revenue for the General Fund. It was calculated that of this revenue, \$574,000 came from 26,861 fingerprint-based background criminal history checks and \$1.8 M came from an estimated 256,000 name-based background checks.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Fingerprint Card Fees:* Under the bill, those that elected to utilize a national criminal history check for the certification or licensure application requirement would be required to submit a fingerprint card and pay any associated fees. If the card is obtained through an ISP post, of which there are 18 statewide, it is free. If it is obtained from a local law enforcement agency, fees vary. Fees collected from fingerprint cards are used by the local police department which collects the fee.

State Agencies Affected: Indiana State Police; Department of Education; Indiana Office of Technology; Post-secondary schools of education.

Local Agencies Affected: Local school corporations and townships; charter schools

Information Sources: Major Doug Shelton, Indiana State Police (317) 232-8265; Indiana Department of Education Databases; Indiana State Police Record Division, Indiana State Police Website (www.in.gov/isp); Dean Mark Ferguson, Vincennes University, (812) 888-4301; Dean John Livers, Vincennes University, (812) 888-4301; Margo Liming-Allen, Ball State University College of Nursing, (765) 285-1834; Tom Warner, Ball State University Associate Vice President for Business Affairs, (765) 285-1133, Debbie Hineline, Indiana Department of Education, (317) 232-0840.

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